



Certified Recommendation

City of Raleigh Planning Commission

Case Information: TC-9-2017 Variance Expiration Time Frame

Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	No specific policy statement addresses this issue. The UDO is a “living document” and as such from time to time it needs to be amended to reflect trends and changing realities of society. Additionally, amendments are also designed to make the administration and enforcement of the UDO more effective. This particular text change addresses that very issue. In particular in the old part 10 code (pre-UDO) the time periods for variances and special use permits expirations were identical (1 year). However, in converting from the old code to the new UDO this consistency of time periods was omitted. Therefore, this amendment is intended to make the time periods for expiration identical – 1 year or 12 months from approval by the Board of Adjustment.
<i>Action Items</i>	NA

Summary of Text Change

<i>Summary</i>	To make the time frame for variance expirations identical to expiration time frames for Special Use Permits issued by the Board of Adjustment
----------------	---

Summary of Impacts

<i>Impacts Identified</i>	No negative impacts.
---------------------------	----------------------

Public Meetings

<i>Submitted</i>	<i>Committee</i>	<i>Planning Commission</i>	
April 25, 2017			

Attachments

- Draft Ordinance

Planning Commission Recommendation

<i>Recommendation</i>	Forward to the City Council with a positive recommendation
<i>Findings & Reasons</i>	
<i>Motion and Vote</i>	

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

Planning Director

Date

Planning Commission Chairperson

Date

Staff Coordinator:

Gary Mitchell gary.mitchell@raleighnc.gov



Zoning Staff Report

Request TC-9-2017 Variance Expiration Time Frame

<i>Section Reference</i>	UDO 10.2.10.F
<i>Basic Information</i>	To make the time frame for variance expirations identical to expiration time frames for Special Use Permits issued by the Board of Adjustment
<i>Planning Commission Recommendation Deadline</i>	June 15, 2017

Comprehensive Plan Guidance

<i>Applicable Policies</i>	No specific policy statement addresses this issue. The UDO is a “living document” and as such from time to time it needs to be amended to reflect trends and changing realities of society. Additionally, amendments are also designed to make the administration and enforcement of the UDO more effective. This particular text change addresses that very issue. In particular in the old part 10 code (pre-UDO) the time periods for variances and special use permits expirations were identical (1 year). However, in converting from the old code to the new UDO this consistency of time periods was omitted. Therefore, this amendment is intended to make the time periods for expiration identical – 1 year or 12 months from approval by the Board of Adjustment.
<i>Action Items</i>	NA

Contact Information

<i>Staff Coordinator</i>	Gary Mitchell gary.mitchell@raleighnc.gov
--------------------------	--

History/Overview

The previous Part 10 Development Regulation specified that the expiration time period for special use permits and variances was 12 months from approval by the Board of Adjustment. In the transition from the old code to the UDO special use permits remained the 12 month expiration time period while variances were changed to 6 months. This omission was never intended. This expiration period reflects the time to submit permits and other required documentation to the City. In order to have more efficient administration of the UDO staff identified this issue and asked City Council for authorization allow staff to make the expiration time periods consistent – 12 months. The City Council authorized this text change in March of 2017.

Purpose and Need

To have efficient administration of the UDO

Alternatives Considered

None

Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

None

Impacts Summary

None

Forward the Proposed Text Change to the City Council with a favorable recommendation

ORDINANCE NO. 2017 – 709 TC 395
TC-9-17 Variance Expiration Time Periods

**AN ORDINANCE TO AMEND ARTICLE 10.2.10 OF THE
RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO
EXTEND THE EXPIRATION TIMEFRAME OF A VARIANCE**

WHEREAS, the intent of the Unified Development Ordinance for the City of Raleigh was to create more predictable development; and

WHEREAS, the existing ordinance specifies different time periods for Board of Adjustment Actions; and

WHEREAS, the City of Raleigh has determined it to be inefficient to have differing expiration periods for variances and special use permits; and

WHEREAS, the Board of Adjustment has requested by motion at the March 13, 2017 meeting, by unanimous vote, that the expiration time periods be uniform; and

WHEREAS, the Board of Adjustment has recommended in their motion that the time period be 12 months from date of Board of Adjustment approval.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. SECTION 10.2.10. F Expiration of Variance is hereby amended by repealing the strikethrough text and replacing with the underlined text as shown below:

F. Expiration of Variance

A variance shall expire after 12 ~~6~~ months from the date of approval by the Board of Adjustment unless: (i) a completed building permit application, including payment of all fees has been filed by the applicant and accepted by the City; or (ii) the use and structure were previously in existence prior to the requested variance. Any appeal of the issuance of the variance to Superior Court shall freeze the running of this 12~~6~~-month period from commencement of the legal challenge until the end of all appeals. Once the use is constructed or established, the variance runs with the land and does not expire except:

1. When the Board of Adjustment conditioned the variance to a limited defined time period; or
2. When the variance is revoked in accordance with *Sec. 10.2.1.D.1.*

Section 2. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict. Notwithstanding any language in a zoning condition indicating administrative alternates are allowed, this ordinance hereby repeals such language.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. This text change has been reviewed by the Raleigh City Planning Commission.

Section 5. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 6. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 7. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 8. This ordinance is effective 5 days after adoption.

ADOPTED: May 16, 2017

EFFECTIVE: May 21, 2017

DISTRIBUTION: Planning – Bowers, Crane, Mitchell, Hodge, Hardin, Anagnost
City Attorney – Seymour, Hargrove-Bailey
Department Heads
Transcription Services – Taylor

Prepared by the Department of City Planning